Committee on Ways and Means

Energy Infrastructure and Technology Act of 2005 Summary

IMPROVING ENERGY INFRASTRUCTURE

The bill includes several provisions that will modernize the distribution, transmission, and production of gas and electricity by reducing the cost of investments in infrastructure.

- Natural gas gathering lines – Current law is unclear as to whether natural gas gathering lines are depreciated over seven years or 15 years. The uncertainty has led to taxpayer confusion and litigation. The provision clarifies natural gas gathering lines are subject to seven-year depreciation (consistent with recent court cases).

- Natural gas distribution lines – Reduces the depreciation period from 35 years to 15 years.

- Electricity Transmission Assets – Reduces the depreciation period from 20 years to 15 years.

- Pollution Control Facilities for Power Plants – Under current law, air pollution control facilities may be depreciated over five years only if the facility is used to control pollution in a power plant built prior to 1976. The provision repeals the date requirement so that air pollution control facilities can be depreciated over five years regardless of when the plant was built.

- Nuclear Decommissioning – Nuclear decommissioning funds (i.e., reserve funds used to pay for a nuclear power plant's decommissioning costs) receive favorable tax treatment, subject to certain restrictions. For example, contributions to the fund are deductible only if they meet a cost of service requirement. Moreover, the fund may accumulate only enough reserves to pay for decommissioning costs incurred after 1984. The provision repeals the cost of service requirement and the post-1984 limitation. As a result, any taxpayer would be allowed to deduct contributions to a qualified fund, and the fund would be allowed to accumulate enough reserves to pay 100 percent of the plant's decommissioning costs. The provision also would allow additional contributions in limited circumstances and makes other modifications.

EXPLORATION, DEVELOPMENT AND PRODUCTION OF ENERGY

The bill includes several provisions to promote the exploration, development and production of energy within the United States to help meet growing demand.

- Helps utilities secure natural gas supplies at lower prices **–** Under current law, tax-exempt bonds issued by state or local governments are subject to "arbitrage restrictions," which limit the issuer's ability to invest the bond proceeds for profit. Treasury regulations clarify that bond prepayments used to purchase natural gas and electricity do not violate the arbitrage rules if certain conditions are met. The provision creates a statutory safe harbor exception to the arbitrage rules. The safe harbor allows public utilities to finance prepayments for natural gas with tax exempt bond proceeds if the natural gas is used to supply the utility's customers. This allows utilities to secure natural gas supplies for their customers at the best prices.

- Delay Rental Payments – Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, the royalty payments are delayed. The provision allows delay rental payments to be deducted over two years if they are incurred in connection with the development of oil or gas in the United States.

- Geological and geophysical costs – Geological and geophysical costs are incurred for the purpose of obtaining data to assist with the exploration and acquisition of minerals. The provision allows these costs to be deducted over two years if they are incurred in connection with oil and gas exploration in the United States.

- Incentives for Small Oil Refiners – Under current law, small refiners are allowed to claim percentage depletion deductions based on the amount of oil they produce. A refiner is eligible for percentage depletion if its refinery runs do not exceed 50,000 barrels on any day of the year. The provision increases the 50,000 barrel limit to 75,000 barrels and bases the limit on average daily production in the year. The enhanced definition would allow more small refiners to fully utilize their capacity in response to market demands. Moreover, basing the limit on average production allows small refiners to make better production decisions because they are not bound by an arbitrary cap on daily production.

- Rationalizes the Non-Conventional Fuels Credit – Section 29 of the Code allows certain taxpayers to claim a non-refundable income tax credit for fuel produced from non-conventional sources. Many taxpayers cannot claim the full credit because they are subject to the Alternative Minimum Tax (AMT). The provision makes the section 29 credit part of the "general business credit" so that unused credits may be carried back one year and carried forward for up to 20 years. The provision equalizes the treatment of the section 29 credit with other business credits in the Code.

DEVELOPMENT AND USE OF NEW ENERGY TECHNOLOGIES

The bill creates new tax incentives to encourage the development and use of new and improved energy technologies.

- <u>Residential Solar Property</u> – Current law provides a 10-percent business energy credit for the cost of solar energy equipment. However, no credit is available for individual investments. The provision creates a nonrefundable personal tax credit for the purchase of residential solar water heating and photovoltaic equipment (i.e., equipment that uses solar energy to generate electricity). The credit equals 15 percent of the investment up to a maximum credit of $2,000. Expires after December 31, 2007.

- <u>Fuel Cell Property</u> **–** Creates a nonrefundable tax credit for residential fuel cell property and business installation of fuel cell power plants (i.e., systems that convert fuel into electricity using electrochemical means). The credit equals 15 percent of the investment, but may not exceed $500 for each 0.5 kilowatt of capacity. Expires after December 31, 2007.

- <u>Advance Lean Burn Technology Vehicles</u> – Creates a nonrefundable tax credit for the purchase of advance lean burn technology vehicles. The credit is between $500 - $3,000 per vehicle (depending on fuel efficiency) plus an additional $250/$500 for lifetime fuel savings of at least 1,500/2,500 gallons. Expires after December 31, 2007.

- <u>Energy Efficient Home Improvements</u> – Creates a nonrefundable personal tax credit for energy efficient improvements to existing homes. The credit equals 20 percent of the cost of the improvements up to a maximum credit of $2,000. Expires after December 31, 2007.

- <u>Water-Diesel Emulsions</u> – Under current law, diesel fuel is taxed at 24.3 cents-per-gallon. The provision reduces the tax rate on qualifying diesel-water emulsions to 19.7 cents-per-gallon to reflect the lower Btu content resulting from the water. This is consistent with the treatment of special motor fuels, which are taxed at energy equivalent rates.

- <u>Personal AMT Relief</u> – Permits the personal energy credits created in this bill to offset AMT liability (i.e., applies to the residential solar water heating, residential photovoltaic, residential fuel cell, energy efficient home, and lean burn diesel vehicle tax credits).

- <u>Business AMT Relief</u> – Permits certain business energy credits to offset AMT liability. The provision applies to the enhanced oil recovery credit (for two years), low sulfur diesel fuel production credit, marginal oil and gas well production credit, and the business fuel cell credit.